

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

FEB 13 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

KEVIN LAPPI,

Plaintiff - Appellant,

v.

EXAMINATION MANAGEMENT
SERVICES, INC., a corporation,

Defendant - Appellee.

No. 04-55601

D.C. No. CV-01-06967-TJH

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Terry J. Hatter, Senior District Judge, Presiding

Submitted December 8, 2005^{**}
Pasadena, California

Before: LEAVY and RAWLINSON, Circuit Judges, and MAHAN^{***}, District
Judge.

^{*} This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

^{***} The Honorable James C. Mahan, United States District Judge for the
District of Nevada, sitting by designation.

Kevin Lappi (Lappi) failed to present any evidence that his discharge from Examination Management Services Inc. occurred under circumstances giving rise to an inference of age discrimination. *See Rose v. Wells Fargo & Co.*, 902 F.2d 1417, 1422 (9th Cir. 1990). Additionally, the age difference between Lappi and the employee who assumed some of his duties several months after he was terminated, is not significant enough to show an inference of age discrimination. *See Guz v. Bechtel Nat. Inc.*, 8 P.3d 1089, 1122-23 (Cal. 2000).

AFFIRM.